

FIRST REGULAR SESSION

# SENATE BILL NO. 323

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time February 5, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1706S.011

## AN ACT

To repeal section 287.190, RSMo, and to enact in lieu thereof one new section relating to workers' compensation.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 287.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.190, to read as follows:

287.190. 1. For permanent partial disability, which shall be in addition to compensation for temporary total disability or temporary partial disability paid in accordance with sections 287.170 and 287.180, respectively, the employer shall pay to the employee compensation computed at the weekly rate of compensation in effect under subsection 5 of this section on the date of the injury for which compensation is being made, which compensation shall be allowed for loss by severance, total loss of use, or proportionate loss of use of one or more of the members mentioned in the schedule of losses.

### SCHEDULE OF LOSSES

	Weeks
(1) Loss of arm at shoulder .....	232
(2) Loss of arm between shoulder and elbow .....	222
(3) Loss of arm at elbow joint .....	210
(4) Loss of arm between elbow and wrist .....	200
(5) Loss of hand at the wrist joint .....	175
(6) Loss of thumb at proximal joint .....	60
(7) Loss of thumb at distal joint .....	45
(8) Loss of index finger at proximal joint .....	45
(9) Loss of index finger at second joint .....	35

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 (10) Loss of index finger at distal joint ..... 30

21 (11) Loss of either the middle or ring finger at the

22 proximal joint ..... 35

23 (12) Loss of either the middle or ring finger

24 at second joint ..... 30

25 (13) Loss of either the middle or ring finger

26 at the distal joint ..... 26

27 (14) Loss of little finger at proximal joint ..... 22

28 (15) Loss of little finger at second joint ..... 20

29 (16) Loss of little finger at distal joint ..... 16

30 (17) Loss of one leg at the hip joint or so near thereto

31 as to preclude the use of artificial limb ..... 207

32 (18) Loss of one leg at or above the knee, where the

33 stump remains sufficient to permit the use of

34 artificial limb ..... 160

35 (19) Loss of one leg at or above ankle and below knee

36 joint ..... 155

37 (20) Loss of one foot in tarsus ..... 150

38 (21) Loss of one foot in metatarsus ..... 110

39 (22) Loss of great toe of one foot at proximal joint ..... 40

40 (23) Loss of great toe of one foot at distal joint ..... 22

41 (24) Loss of any other toe at proximal joint ..... 14

42 (25) Loss of any other toe at second joint ..... 10

43 (26) Loss of any other toe at distal joint ..... 8

44 (27) Complete deafness of both ears ..... 180

45 (28) Complete deafness of one ear, the

46 other being normal ..... 49

47 (29) Complete loss of the sight of one eye ..... 140

48 2. If the disability suffered in any of items (1) through (29) of the schedule

49 of losses is total by reason of severance or complete loss of use thereof the number

50 of weeks of compensation allowed in the schedule for such disability shall be

51 increased by ten percent.

52 3. For permanent injuries other than those specified in the schedule of

53 losses, the compensation shall be paid for such periods as are proportionate to the

54 relation which the other injury bears to the injuries above specified, but no period

55 shall exceed four hundred weeks, at the rates fixed in subsection 1. The other

56 injuries shall include permanent injuries causing a loss of earning power. For the  
57 permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe or  
58 phalange, compensation shall be paid for the proportionate loss of the use of the  
59 arm, hand, thumb, finger, leg, foot, toe or phalange, as provided in the schedule  
60 of losses.

61 4. If an employee is seriously and permanently disfigured about the  
62 head[,] or neck[, hands or arms] **and the disfigurement is a hindrance to**  
63 **employment**, the division or commission may allow such additional sum for the  
64 compensation on account thereof as it may deem just, but the sum shall not  
65 exceed forty weeks of compensation. If both the employer and employee agree,  
66 the administrative law judge may utilize a photograph of the disfigurement in  
67 determining the amount of such additional sum.

68 5. The amount of compensation to be paid under subsection 1 of this  
69 section shall be computed as follows:

70 (1) For all injuries occurring on or after September 28, 1983, but before  
71 August 28, 1990, the weekly compensation shall be an amount equal to sixty-six  
72 and two-thirds percent of the employee's average weekly earnings as of the date  
73 of the injury; provided that the weekly compensation paid under this subdivision  
74 shall not exceed an amount equal to forty-five percent of the state average weekly  
75 wage, as such wage is determined by the division of employment security, as of  
76 the July first immediately preceding the date of injury;

77 (2) For all injuries occurring on or after September 28, 1981, the weekly  
78 compensation shall in no event be less than forty dollars per week;

79 (3) For all injuries occurring on or after August 28, 1990, but before  
80 August 28, 1991, the weekly compensation shall be an amount equal to sixty-six  
81 and two-thirds percent of the employee's average weekly earnings as of the date  
82 of the injury; provided that the weekly compensation paid under this subdivision  
83 shall not exceed an amount equal to fifty percent of the state average weekly  
84 wage;

85 (4) For all injuries occurring on or after August 28, 1991, but before  
86 August 28, 1992, the weekly compensation shall be an amount equal to sixty-six  
87 and two-thirds percent of the employee's average weekly earnings as of the date  
88 of the injury; provided that the weekly compensation paid under this subdivision  
89 shall not exceed an amount equal to fifty-two percent of the state average weekly  
90 wage;

91 (5) For all injuries occurring on or after August 28, 1992, the weekly

92 compensation shall be an amount equal to sixty-six and two-thirds percent of the  
93 employee's average weekly earnings as of the date of the injury; provided that the  
94 weekly compensation paid under this subdivision shall not exceed an amount  
95 equal to fifty-five percent of the state average weekly wage.

96           6. (1) "Permanent partial disability" means a disability that is permanent  
97 in nature and partial in degree, and when payment therefor has been made in  
98 accordance with a settlement approved either by an administrative law judge or  
99 by the labor and industrial relations commission, a rating established by medical  
100 finding, certified by a physician, and approved by an administrative law judge or  
101 legal advisor, or an award by an administrative law judge or the commission, the  
102 percentage of disability shall be conclusively presumed to continue undiminished  
103 whenever a subsequent injury to the same member or same part of the body also  
104 results in permanent partial disability for which compensation under this chapter  
105 may be due; provided, however, the presumption shall apply only to compensable  
106 injuries which may occur after August 29, 1959.

107           (2) Permanent partial disability or permanent total disability shall be  
108 demonstrated and certified by a physician. Medical opinions addressing  
109 compensability and disability shall be stated within a reasonable degree of  
110 medical certainty. In determining compensability and disability, where  
111 inconsistent or conflicting medical opinions exist, objective medical findings shall  
112 prevail over subjective medical findings. Objective medical findings are those  
113 findings demonstrable on physical examination or by appropriate tests or  
114 diagnostic procedures.

115           (3) Any award of compensation shall be reduced by an amount  
116 proportional to the permanent partial disability determined to be a preexisting  
117 disease or condition or attributed to the natural process of aging sufficient to  
118 cause or prolong the disability or need of treatment.

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